

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA IMMEDIATE
INFO AMCONSUL VANCOUVER IMMEDIATE

C O N F I D E N T I A L STATE 141746

E.O. 11652: GDS

TAGS: EFIS, CA

SUBJECT: CANADA PROHIBITS U.S. SHRIMP FISHING OFF VANCOUVER
ISLAND

1. CANADIAN CHARGE MCKINNEY JUNE 17 CALLED ON ASSISTANT
SECRETARY VEST TO DELIVER EMBASSY NOTE 254, DATED JUNE 16,
NOTIFYING US THAT GOC IS PROHIBITING U.S. SHRIMP FISHING
OFF VANCOUVER ISLAND EFFECTIVE JUNE 16. FOLLOWING IS TEXT:

BEGIN TEXT--THE EMBASSY OF CANADA PRESENTS ITS COMPLIMENTS
TO THE DEPARTMENT OF STATE AND HAS THE HONOUR TO REFER TO
THE RECIPROCAL FISHERIES AGREEMENT BETWEEN THE GOVERNMENTS
OF CANADA AND THE UNITED STATES OF AMERICA, SIGNED AT
WASHINGTON, D.C. ON FEBRUARY 24, 1977; TO THE SUBSEQUENT
CONSULTATIONS AND CORRESPONDENCE BETWEEN THE TWO SIDES
REGARDING OCEAN TROLL SALMON REGULATIONS OFF THE PACIFIC
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COAST OF THE UNITED STATES; TO THE EMBASSY'S NOTE NO. 174
OF APRIL 25, 1977; AND TO THE OCEAN TROLL SALMON REGULA-
TIONS APPROVED BY THE SECRETARY OF COMMERCE ON APRIL 20,
1977 AND THE MODIFIED REGULATIONS APPROVED ON MAY 19, 1977.

THE CANADIAN GOVERNMENT CANNOT CONSIDER EITHER THE ORIGINAL
OR MODIFIED REGULATIONS TO BE CONSISTENT WITH THE TERMS OF

OF THE RECIPROCAL FISHERIES AGREEMENT, WHICH HAS AS ITS

BASIC PRINCIPLE THAT FISHING BY NATIONALS AND VESSELS OF EACH PARTY IN THE ZONE OF THE OTHER SHALL CONTINUE IN ACCORDANCE WITH EXISTING PATTERNS. THE REGULATIONS AS NOW APPROVED WILL RESULT IN AN ESTIMATED REDUCTION OF 44 PERCENT IN FISHING DAYS AVAILABLE TO CANADIAN SALMON FISHERMEN OFF THE UNITED STATES PACIFIC COAST AND AN ESTIMATED LOSS OF 42 PERCENT OF THE NUMBER OF CHINOOK SALMON AND 33 PERCENT OF THE NUMBER OF COHO SALMON NORMALLY TAKEN BY CANADIAN VESSELS IN THIS AREA. IT WILL BE NOTED THAT THESE PERCENTAGES ARE CONSISTENT WITH THE AGREEMENT REACHED BETWEEN CANADIAN AND UNITED STATES OFFICIALS AT TECHNICAL DISCUSSIONS HELD IN SEATTLE ON JUNE 9, 1977.

REDUCTIONS OF EFFORT AND CATCH OF THIS MAGNITUDE CANNOT, UNDER ANY INTERPRETATION OF THE RECIPROCAL FISHERIES AGREEMENT, BE VIEWED AS BEING CONSISTENT WITH THE PRESERVATION OF EXISTING FISHING PATTERNS OR WITH NON-DISCRIMINATORY TREATMENT OF CANADIAN AND UNITED STATES FISHERMEN IN GENERAL. THE SPECIFIC TROLL REGULATIONS FOR THE MAKAH INDIAN TRIBE ARE PARTICULARLY DISCRIMINATORY: WHILE IT IS APPRECIATED THAT THESE SPECIFIC REGULATIONS ARE NECESSARY TO FULFILL OBLIGATIONS TO THE MAKAH TRIBE, IT MUST BE EMPHASIZED THAT INTERNATIONAL TREATY OBLIGATIONS ARE OWING TO CANADA IN THIS MATTER. NOR CAN THE CANADIAN GOVERNMENT AGREE THAT THE OBLIGATION TO PRESERVE EXISTING PATTERNS OF CANADIAN AND UNITED STATES RECIPROCAL FISHERIES CAN BE OVERRIDDEN BY THE ADMITTED RIGHT OF BOTH
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COUNTRIES TO MANAGE FISHERIES WITHIN THEIR JURISDICTION WITHIN THE TERMS OF THEIR DOMESTIC LAWS; SUCH A VIEW OF THE RELATIONSHIP BETWEEN INTERNATIONAL OBLIGATIONS AND DOMESTIC LAWS WOULD DEPRIVE INTERNATIONAL AGREEMENTS OF THEIR OBJECT AND MEANING.

THE CANADIAN GOVERNMENT HAS MADE EVERY EFFORT TO SEEK A MUTUALLY ACCEPTABLE PRACTICAL RESOLUTION OF THIS MATTER AND HAS PUT FORWARD PROPOSALS TO THIS END, WITHOUT PREJUDICE TO ITS VIEW AS TO THE RESPECTIVE RIGHTS AND OBLIGATIONS OF THE TWO PARTIES UNDER THE RECIPROCAL FISHERIES AGREEMENT. THESE PROPOSALS WOULD HAVE STILL RESULTED IN SIGNIFICANT LOSSES FOR CANADIAN FISHERMEN BUT WOULD HAVE LED TO REGULATIONS MORE CONSISTENT WITH THE PRESERVATION OF THE EXISTING PATTERN OF CANADIAN SALMON FISHING OFF THE UNITED STATES PACIFIC COAST. THE CANADIAN GOVERNMENT IS DEEPLY DISAPPOINTED THAT THESE PROPOSALS HAVE NOT BEEN TAKEN INTO ACCOUNT BY THE UNITED STATES AUTHORITIES.

THE SALMON TROLL FISHERY IS ONE OF THE MOST IMPORTANT CANADIAN FISHERIES OFF THE UNITED STATES COAST. ITS

TREATMENT UNDER THE REGULATIONS AS NOW APPROVED DIFFERS SHARPLY FROM THE TREATMENT OF ALL OTHER FISHERIES COVERED BY THE RECIPROCAL FISHERIES AGREEMENT, DESPITE THE FACT THAT THE SAME BASIC PRINCIPLE UNDERLYING THE AGREEMENT APPLIES IN THIS AND EVERY OTHER CASE. THE CANADIAN GOVERNMENT, ON THE OTHER HAND, HAS PERMITTED FISHING BY UNITED STATES NATIONALS AND VESSELS IN CANADIAN FISHERIES WATERS TO PROCEED WITHOUT INTERFERENCE OR INTERRUPTIONS SINCE JANUARY 1, 1977, IN ACCORDANCE WITH EXISTING PATTERNS AND SUBJECT ONLY TO THOSE LIMITATIONS AGREED BY BOTH SIDES.

THE CANADIAN GOVERNMENT CONSIDERS THAT THE RECIPROCAL NATURE OF ITS AGREEMENT WITH THE UNITED STATES GOVERNMENT HAS BEEN FUNDAMENTALLY AFFECTED BY THE OCEAN TROLL SALMON
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REGULATIONS AS NOW APPROVED. IN THE CIRCUMSTANCES, AND BEARING IN MIND THAT THE CANADIAN SIDE MADE CLEAR FROM THE OUTSET OF THE NEGOTIATIONS THAT THE PRIVILEGES TO BE EXTENDED TO UNITED STATES SHRIMP FISHERMEN OFF THE CANADIAN COAST WERE CONDITIONAL UPON A SATISFACTORY RESOLUTION OF THE SALMON PROBLEM, THE CANADIAN GOVERNMENT HAS NO ALTERNATIVE BUT TO TAKE APPROPRIATE ACTION, IN KEEPING WITH ESTABLISHED PRINCIPLES OF INTERNATIONAL TREATY LAW, TO RESTORE THE RECIPROCAL NATURE OF THE AGREEMENT. ACCORDINGLY, CANADA HEREBY GIVES NOTICE:

(A) THAT IT CONSIDERS THE UNITED STATES IS NOT IN COMPLIANCE WITH CERTAIN OF ITS OBLIGATIONS UNDER THE RECIPROCAL FISHERIES AGREEMENT OF FEBRUARY 24, 1977, WHICH IS BEING APPLIED PROVISIONALLY BY BOTH GOVERNMENTS;

(B) THAT AS A CONSEQUENCE AND UNTIL FURTHER NOTICE IS GIVEN, IT IS FORTHWITH SUSPENDING IN PART THE OPERATION OF THE RECIPROCAL FISHERIES AGREEMENT INsofar AS IT APPLIES TO SHRIMP FISHING BY UNITED STATES NATIONALS AND VESSELS OFF THE PACIFIC COAST OF CANADA; AND

(C) THAT DEFINITIVE ENTRY INTO FORCE OF THE AGREEMENT UNDER ARTICLE XVIII IS SUBJECT TO THE PARTIAL SUSPENSION REFERRED TO IN PARAGRAPH (B) ABOVE.

THE CANADIAN GOVERNMENT WILL TAKE THE NECESSARY INTERNAL STEPS TO PROHIBIT THE TAKING OF SHRIMP BY UNITED STATES NATIONALS AND VESSELS ON THE TOFINO GROUNDS OFF THE WEST COAST OF VANCOUVER ISLAND, EFFECTIVE JUNE 16, 1977.

THE CANADIAN GOVERNMENT REGRETS THAT IT IS COMPELLED TO TAKE THIS ACTION. IT REMAINS READY TO MAKE EVERY EFFORT TOGETHER WITH THE UNITED STATES GOVERNMENT TO RESOLVE THE MATTER WHICH HAS BROUGHT ABOUT THE PRESENT UNFORTUNATE

SITUATION, SO THAT THE SALMON AND SHRIMP FISHERIES
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RESPECTIVELY COULD BE PURSUED IN KEEPING WITH THE
RECIPROCAL FISHERIES AGREEMENT. IT IS ESPECIALLY UNFOR-
TUNATE THAT FISHERIES RELATIONS BETWEEN CANADA AND THE
UNITED STATES SHOULD SUFFER THIS SET-BACK AT A TIME WHEN
EXTENDED FISHERIES JURISDICTION OFFERS THE TWO COUNTRIES
ENHANCED OPPORTUNITIES FOR MUTUALLY BENEFICIAL CO-
OPERATION.

THE EMBASSY AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO
THE DEPARTMENT OF STATE THE ASSURANCES OF ITS HIGHEST
CONSIDERATION.--END TEXT

2. IN ORAL PRESENTATION MCKINNEY SAID THAT GOC HAD HELD
UP ON SHRIMP PROHIBITION UNTIL COURT IN HAWAII TURNED DOWN
REQUEST BY U.S. FISHERMEN FOR INJUNCTION TO NULLIFY U.S.
REGULATIONS ON SALMON FISHING. EVEN NOW GOC PLANNED HOLD
UP ON ANNOUNCING PROHIBITION UNTIL EVENING JUNE 17 TO SEE
WHETHER APPELLATE COURT IN SAN FRANCISCO WOULD ISSUE SUCH
AN INJUNCTION.

3. HE NOTED GOC HAD TAKEN ACCOUNT OF DEPUTY ASSISTANT
SECRETARY VINE'S POINT THAT GOC MIGHT BETTER RESPOND BY
RESTRICTING SALMON FISHING IN CANADIAN WATERS BUT HAD
FOUND U.S. CATCH SO NEGLIGIBLE THAT THIS WOULD NOT BE
SUFFICIENT BALANCE.

4. EXTAFF SECSTATE JAMIESON WOULD PROBABLY ALSO BE WRIT-
ING SECRETARY ON MATTER, MCKINNEY SAID.

5. IF SAN FRANCISCO COURT DECIDED NOT TO OVERRIDE SALMON
REGULATIONS, MCKINNEY SAID, GOC WOULD SEND OUT SHRIMP
PROHIBITION NOTICE EVENING JUNE 17. U.S. SHRIMP FISHER-
MEN WOULD BE GIVEN 24 HOURS TO STOP FISHING IN CANADIAN
WATERS.

6. MCKINNEY STRESSED THAT GOC TOOK ACTION NOT UNDER 1977
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INTERIM FISHING AGREEMENT BUT OUTSIDE OF IT UNDER PRIN-
CIPLES OF INTERNATIONAL LAW IN ORDER RESTORE BALANCE OF
THAT AGREEMENT, DISTURBED BY U.S. SALMON CURTAILMENTS.
GOC, HE WENT ON, CONTINUED TO SUPPORT INTERIM AGREEMENT
AND HOPED TO CONTAIN DIFFICULTIES, NOT ESCALATE THEM. GOC
CONSIDERED IT ALL THE MORE IMPORTANT FOR BOTH SIDES TO
MOVE AHEAD TO DEFINE MARINE BOUNDARIES AND REACH PER-

MANENT AGREEMENT ON FISHERIES, IN VIEW OF THESE DIFFICULTIES.

7. VEST REPLIED THAT U.S. CONSIDERED GOC ACTION VIOLATION OF INTERIM AGREEMENT WHICH MIGHT WELL HAVE NEGATIVE IMPACT ON PASSAGE BY CONGRESS OF LEGISLATION IMPLEMENTING

THAT AGREEMENT. (HOUSE HAS PASSED SUCH LEGISLATION WHICH NOW ON SENATE FOREIGN RELATIONS COMMITTEE AGENDA JUNE 21, AS MCKINNEY AWARE.) VEST NOTED THAT OES ASSISTANT SECRETARY MINK, LEGAL ADVISER HANSELL, AND VINE WERE IN OTTAWA JUNE 17 FOR LONG-TERM FISHERY TALKS AND THAT GOC ACTION AT THIS TIME WOULD MAKE RESOLUTION OF PROBLEMS EVEN MORE DIFFICULT. HE ALSO NOTED THAT CANADIANS HAD BEEN INFORMED ALL ALONG OF U.S. INTERNAL LEGAL REQUIREMENTS CONNECTED WITH RESTRICTION OF SALMON FISHERY.

8. VEST POINTED OUT THAT IN VIEW OF GOC ACTION WE COULD NOT BE SURE IT WOULD NOW BE POSSIBLE OR APPROPRIATE TO COMPLETE ACTION TO BRING INTO FORCE 1977 AGREEMENT. HE UNDERScored SERIOUSNESS OF CANADIAN ACTION AND NEGATIVE IMPACT IT COULD HAVE IN ALREADY CLOUDED ATMOSPHERE AND DIFFICULT SITUATION. VEST CONCLUDED THAT WE WOULD GET BACK TO GOC AFTER ITS ACTION HAD BEEN CONSIDERED BY USG.

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